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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/671,153 | 09/25/2003 | George P. Succi | D-2003-0101 | 7569 |
| 7590 | 01/26/2005 | | EXAMINER | |
| Robert K. Tendler 65 Atlantic Avenue Boston, MA 02110 | | | NGUYEN, PHUNG | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2632 | |

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/671,153

Applicant(s)

SUCCI ET AL.

Examiner

Phung T Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 September 2003.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-3 and 12-17 is/are rejected.
7) ☒ Claim(s) 4-11 and 18 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3, and 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sojdehei et al. (U.S. Pat. 5,969,608) in view of Fogler (U.S. Pat. 4,630,246).

Regarding claim 1: Sojdehei et al. disclose magneto-inductive seismic fence comprising an array of unattended detectors spaced about the terrain (fig. 1, col. 2, lines 33-40); a module at one of the detectors for ascertaining seismic noise level thereat and for determining vehicle type (col. 3, lines 30-59). Sojdehei et al. do not teach ascertaining acoustic and seismic noise levels thereat and for determining vehicle type from a pair of acoustic and seismic noise levels. However, Fogler discloses seismic acoustic low-flying aircraft detector using both a microphone 102 and geophone 101 as sensors for detecting low flying aircraft (fig. 1, col. 2, lines 37-42, and col. 3, lines 66-68). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the teaching of Fogler in the system of Sojdehei et al. because they both teach a system to detect encroachment into an area. It is seen that Fogler's teaching of combination of the geophone and the microphone would provide a comprehensive detecting system.

Regarding claim 2: Sojdehei et al. disclose a transmitter at the one detector for transmitting said vehicle type to a location remote from said sensor (col. 3, lines 1-7).

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Regarding claim 3: Sojdehei et al. inherently disclose wherein said levels are absolute levels (col. 3, lines 35-52).

Regarding claim 12: All the claimed subject matter is already discussed in respect to claims 1 and 3 above.

Regarding claim 13: Fogler discloses wherein the noise is acoustic noise (col. 3, lines 58-64).

Regarding claim 14: Fogler discloses wherein the noise is seismic noise (col. 3, lines 58-64).

Regarding claim 15: Sojdehei et al. disclose wherein the seismic noise is near field noise (Fig. 1, col. 4, lines 55-65).

Regarding claim 16: Sojdehei et al. disclose wherein the seismic noise is far field noise (Fig. 1, col. 4, lines 55-65).

Regarding claim 17: Sojdehei et al. inherently disclose wherein the noise is seismic noise and wherein the absolute noise level is dependent on the terrain over which the vehicle is transiting (col. 3, lines 30-42).

Allowable Subject Matter

3. Claims 4-11, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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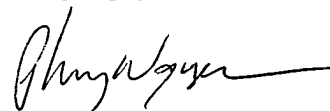
- a. Pykett [U.S. Pat. 5,107,250] discloses detection of moving objects.
- b. Braunling [U.S. Pat. 4,661,939] discloses light vehicle range discriminator.
- c. Barnes, Jr. et al. [U.S. Pat. 4,158,832] disclose seismic apparatus for discrimination between track-type vehicles and wheel-type vehicles.
- d. Lee [U.S. Pat. 3,719,891] discloses intruder detection system.
- e. Muis [U.S. Pat. 4,601,022] discloses seismic exploration using non-impulsive vibratory sources activated by stationary, gaussian codes, and processing the results in distortion-free final records particularly useful in urban areas.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung T Nguyen whose telephone number is 571-272-2968. The examiner can normally be reached on 8:00am-5:30pm Mon thru. Friday, with alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J. Wu can be reached on 571-272-2964. The fax numbers for the organization where this application or proceeding is assigned are 703-305-3988 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2600.

Phung Nguyen



Date: January 21, 2005